



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **CHI/00MR/LDC/2022/0036**

Property : **1-13 Strawberry Green,
Beresford Road, Portsmouth,
PO2 0AZ**

Applicant : **Southern Land Securities Ltd**

Representative : **Mr Hristov
Together Property Management**

Respondent : **(1) Nicola and Kevin Telford
(Flats 1 and 7)
(2) Philip and David Wyles
(Flats 4 and 6)
(3) Aurelija Martinaitiene (Flat 3)
(4) Louise and Nicola Pharoah
(Flat 8)
(5) Laura Whelan (Flat 9)**

Representative : **Nicola Telford**

Type of Application : **s.20ZA,
Landlord and Tenant Act 1985**

Tribunal Members : **Judge Dovar
Mr Ridgeway MRICS
Mr Sennett**

**Date and venue of
Hearing** : **9th June 2022, Havant**

Date of Decision : **9th June 2022**

DECISION

1. The Applicant seeks dispensation under Section 20ZA of the Landlord and Tenant Act 1985 from the consultation requirements imposed on the landlord by Section 20 of the 1985 Act. In particular this relates to emergency works that were carried out at the Property between 7th and 13th April 2021, to shore up, secure and make safe the roof of a brick bin store which had collapsed.
2. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. **This application does not concern the issue of whether any service charge costs will be reasonable or payable.**
3. On 5th April 2021, which was Easter Monday, there was a report by a resident of the Property that the roof of the bin store had collapsed. That day an email went out to all leaseholders warning them of the damage and the intention to make the area safe. The next day, 6th April 2021, first thing in the morning, a surveyor, Nick Barber was called out to assess the damage. He emailed confirming that the roof structure needed to be removed and was unsafe and ‘as a matter of great urgency’ he also said protective fencing should be put up.
4. On 7th April, the Applicant had a contractor, Veritas, attend to erect fencing, as evidenced by an invoice dated 7th April 2021 for £360. Mr Hristov, for the Applicant, said that they did not try and get any quotes because of the urgency and just instructed Veritas, who they had used before, to get on with the works. He said they didn’t have time to start approaching other contractors, they needed to make the site safe. The next day works were done to secure the area, in the sum of £3,528, as evidence by an invoice dated 8th April 2021 from Veritas. Finally on 13th April 2021, Veritas charged £276 for what is said to be placing hazard tape around the area and removing bricks that had fallen onto cars.
5. It is in respect of the costs and work reflected in these three invoices that the Applicant seeks dispensation as due to the urgency no statutory consultation at all was carried out.
6. The Respondents main concern appears to have been with the actual cost and the use of the contractors who were not local to the area. They were also concerned about a lack of transparency and failure of communication.
7. The decision of the Applicant to instruct the works urgently is one that the Tribunal readily understands. The Respondents also agreed that the matter was urgent. They did however raise concerns with respect to communication and transparency and they did not know how the actual costs that are to be claimed had been arrived at.
8. When considering whether to grant dispensation the Tribunal should take into account any prejudice that the leaseholders may suffer because of the failure to properly consult. In this case, had the

consultation been complied with, the Tribunal considers the leaseholders are likely to have received more information on the works that were carried out: in particular they are likely to have received a more detailed breakdown of the cost of the works and may have been provided with details of the instructions.

9. In the circumstances, in light of the urgency and the potential prejudice due to the lack of consultation, the Tribunal grants dispensation on condition that the Applicant provides the Respondents with:
 - A copy of all instructions to Veritas to carry out the works;
 - A breakdown of how the cost of the second invoice dated 8th April 2021, has been arrived at.
10. Once those items have been provided, then all the consultation requirements will be dispensed with by the Tribunal.

Judge Dovar

Appeals

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk .

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.